

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

SINGULAR COMPUTING LLC,)
)
Plaintiff) Civil Action
)
) No. 19-12551-FDS
vs.)
)
GOOGLE LLC,)
Defendant)

BEFORE: CHIEF JUDGE F. DENNIS SAYLOR, IV

TELEPHONIC STATUS CONFERENCE

John Joseph Moakley United States Courthouse
1 Courthouse Way
Boston, MA 02210

November 9, 2020
2:00 p.m.

Valerie A. O'Hara, FCRR, RPR
Official Court Reporter
John Joseph Moakley United States Courthouse
1 Courthouse Way
Boston, MA 02210
E-mail: vaohara@gmail.com

1 APPEARANCES:

2 For The Plaintiff:

3 Prince, Lobel, Tye, LLP, by PAUL J. HAYES, ESQ.,
4 One International Place, Boston, Massachusetts 02110;

5 For the Defendant:

6 Wolf, Greenfield & Sacks, P.C., by NATHAN R. SPEED, ESQ.,
7 600 Atlantic Avenue, Boston, Massachusetts 02210;

8 Kwun, Bhansali, Lazarus LLP, by ASIM M. BHANSALI, ESQ.,
9 555 Montgomery Street, Suite 750, San Francisco, California
10 94111;

11 Keker, Van Nest & Peters LLP, by MATTHIAS A. KAMBER, ESQ.,
12 633 Battery March Street, San Francisco, California 94111.
13
14
15
16
17
18
19
20
21
22
23
24
25

1 PROCEEDINGS

2 THE CLERK: Court is now in session in the matter of
3 Singular Computing vs. Google, Matter Number 19-12551.

4 Participants are reminded that recording or
5 rebroadcasting of this hearing is prohibited and may result in
6 sanctions.

7 Would counsel please identify themselves for the
8 record, beginning with plaintiff's counsel.

9 MR. HAYES: Paul Hayes for Singular.

01:59PM 10 THE COURT: Good morning or good afternoon.

11 MR. HAYES: Good morning, good afternoon, right. It's
12 Ground Hog Day, so it really doesn't matter.

13 THE COURT: Exactly.

14 MR. SPEED: Your Honor, this is Nathan Speed for the
15 defendant, Google. I'm joined by Matthias Kamber from Kecker,
16 Van Nest and Asim Bhansali from Kwun, Bhansali, Lazarus.

17 THE COURT: All right. Good afternoon. All right.
18 This is a status conference in this case. Where are we?

19 MR. HAYES: I think we're going pretty good, Judge.
01:59PM 20 Interrogatories have been served, not any disputes. Most
21 disputes have been worked out, so that's good. The document
22 requests have been exchanged, the first round. Documents, E
23 documents are in the process, supposedly Google is going to
24 produce the e-mails some time this week, I believe. Google has
25 sent out 17 third-party subpoenas for documents, et cetera. We

1 have noticed, plaintiff has noticed seven depositions plus a
2 30(b)(6).

3 We have filed infringement contentions. They have
4 filed, I believe Friday, their non-infringement contentions,
5 then invalidity contentions, and we worked out that they are
6 going to provide us with a couple of samples of the product.

7 An IPR has been recently filed. We were notified a
8 couple of like last week, that was just filed, and that's about
9 it. We're moving on here. I would suspect that we should
02:01PM 10 begin depositions probably in December, the plaintiff will
11 anyway, Singular.

12 Once we get the few e-mails from the right people, we
13 will have a bunch of people to depose then, and there hasn't
14 really been any drastic disputes, so to speak. We've all been
15 in this rodeo before, so to speak, so that's about it.

16 THE COURT: All right. Mr. Speed.

17 MR. SPEED: Matthias is going to speak on our side.

18 THE COURT: Okay.

19 MR. KAMBER: Good afternoon, your Honor,
02:01PM 20 Matthias Kamber for Google. I think Mr. Hayes is right in
21 terms of the general status of discovery. I think two things
22 to clarify: One, on e-mails, we are responding to them the
23 middle of this week with the iterations on search terms. They
24 had provided search terms. Some have too many hits. We're
25 going to be providing some proposed edits to those search

1 terms, but the ESI discovery process is certainly underway, but
2 I don't think those e-mails are going to be produced this week.

3 I think we're getting back to them on the search terms
4 themselves, and with respect to the IPRs, those were filed the
5 week before last, and then last week on Friday, late we filed
6 the last one, so there are now two IPR petitions filed with
7 respect to each of the three asserted patents, and we haven't
8 yet had an opportunity to discuss with Singular the idea of the
9 stipulated stay pending an institution decision.

02:02PM 10 That is something we would like a chance to do with
11 them, obviously, but to the extent there's any guidance that
12 the Court can provide, if you would prefer to wait for an
13 institution decision or if you would be amenable to having a
14 motion to stay the case be brought before institution, the
15 reason being, we are, as Mr. Hayes says, about to embark on
16 depositions.

17 We have exchange of claim construction terms on
18 December 4th, and to the extent that any of this work perhaps
19 should be avoided in light of the potential IPRs, then we'd
02:03PM 20 like a chance to discuss that with them and perhaps to move the
21 Court.

22 THE COURT: I don't have a particular view on it. If
23 you agree, I think I would probably be, that is, agree that
24 this ought to be stayed pending the IPR, I doubt that I would
25 second guess that. If you disagree, you can tee it up with a

1 motion, and we can talk about, you know, and I'll look at it
2 and decide what makes sense.

3 I mean, I think it certainly makes sense to resolve it
4 one way or the other before we get too deep into discovery, but
5 why don't you begin by having that conversation.

6 MR. KAMBER: That makes sense, your Honor, we will do
7 that.

8 THE COURT: I'm sorry, Mr. Hayes, did you want to
9 chime in?

02:04PM 10 MR. HAYES: The response to that, Judge, is obviously
11 we're not agreeable to stay discovery because I think as you
12 well know, any stay would delay this case another three years,
13 and by the time anything ever gets resolved, in a year and a
14 half, we'll be ready for trial, so our position is we obviously
15 want to try the case.

16 My client is not a young chicken, and so for him, he's
17 past 65, so for him to just keep waiting around, given the fact
18 that infringement has been ongoing since I believe 2017, but
19 all that, as you say, all that we can address in a motion
02:05PM 20 whenever the time comes.

21 THE COURT: Okay. I don't know the ins and outs, but
22 sometimes there's a piece of this that can be put on hold while
23 we litigate the rest of it. It's not obvious to me that this
24 would be such a case, but I'll see what you have to say, okay,
25 but let's tee this up relatively quickly, that is Mr. Kamber,

1 if you're going to ask for a stay, let's get that on file.

2 MR. KAMBER: Yes, that makes sense, if we're going to
3 ask for it, time is of the in essence, so we will do that, your
4 Honor.

5 THE COURT: All right. Otherwise I think we have a
6 conference in January again; is that right?

7 MR. KAMBER: That's correct, I believe the next one is
8 not scheduled until January around the same time, I think it
9 might be just after our opening briefs are due on claim
02:06PM 10 construction.

11 THE COURT: And if there's a pending motion and we
12 need to have argument on that, obviously, we can schedule that
13 in the interim, but otherwise just leave things where they are
14 and see how this develops. All right. Anything else anyone
15 wants to take up? Mr. Hayes.

16 MR. HAYES: No, your Honor, that should do it.

17 MR. KAMBER: No, thank you, your Honor.

18 THE COURT: Okay. Thank you, all.

19 (Whereupon, the hearing was adjourned at 2:06 p.m.)
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

UNITED STATES DISTRICT COURT)
DISTRICT OF MASSACHUSETTS) ss.
CITY OF BOSTON)

I do hereby certify that the foregoing transcript,
Pages 1 through 8 inclusive, was recorded by me
stenographically at the time and place aforesaid in Civil
Action No. 19-12551 -FDS, SINGULAR COMPUTING LLC vs. GOOGLE LLC
and thereafter by me reduced to typewriting and is a true and
accurate record of the proceedings.

Dated November 17, 2020.

s/s Valerie A. O'Hara

VALERIE A. O'HARA

OFFICIAL COURT REPORTER